

INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA

NO. 1096

23 AUGUST 2019



**REVIEW OF
THE PRICE CAP REGULATIONS FOR RESERVED POSTAL SERVICES**

I, Dr. Keabetswe Modimoeng, Acting Chairperson of the Independent Communications Authority of South Africa (“the Authority”), hereby publish the attached notice of intention to review the Price Cap Regulations for Reserved Postal Services, 2013 (“the Regulations”) in terms of sections 2 (a), 8(a) and 30 of the Postal Services Act 124 of the 1998 (“PSA”) and regulation 10 of the Regulations.

Dr. Keabetswe Modimoeng
Acting Chairperson



NOTICE OF INTENTION TO REVIEW THE PRICE CAP REGULATIONS FOR RESERVED POSTAL SERVICES

1. Introduction

- 1.1. The Independent Communications Authority of South Africa (“the Authority”) hereby gives notice of its intention to review the Price Cap Regulations for Reserved Postal Services, 2013 (“the Regulations”) in terms of sections 2(a), 8(a) and 30(2) of the Postal Services Act 124 of the 1998 (“PSA”) and regulation 10 of the Regulations.
- 1.2. The review follows the conclusion of the Regulatory Impact Assessment (“RIA”) on the Regulations to determine whether or not the imposition of price controls is still relevant and propose an alternative form(s) of regulation, if necessary. The RIA found that a new regulatory framework is urgently needed, as the current price control obligation is no longer effective or proportionate. It should be noted that a regulatory impact assessment is not a requirement in terms of the PSA but is viewed as regulatory best practice.

2. Legal Basis for the Review

- 2.1. The Authority is the regulator for postal services in terms of the PSA and in terms of section 8(1)(a) the PSA the Authority is mandated to “... exercise regulatory functions in respect of the reserved and unreserved postal services”.
- 2.2. Additionally, the primary objects of the PSA are to, among others;
 - 2.2.1. ... promote the universal and affordable provision of postal services...
 - 2.2.2. ...encourage investment and innovation in the postal industry...
 - 2.2.3. ...promote the development of postal services that are responsive to the needs of users and consumers...
 - 2.2.4. ...ensure fair competition within the postal industry...and
 - 2.2.5. ...protect the interests of postal users and consumers.
- 2.3. The Authority, as the regulator of reserved postal services, is required to regulate in accordance with the objectives of the PSA.
- 2.4. Finally, in terms of Section 30(1) of the PSA, the Authority is empowered, subject to the approval of the Minister of Communications and Digital Technologies, and in consultation with South African Post Office (“SAPO”), to determine the fees and charges in respect of reserved postal services.

3. The Purpose of the Review

- 3.1. The purpose of this review is to impose effective price controls in the reserved postal services and ensure that regulation of the reserved services space remains appropriate and sufficient to secure the efficient and financially sustainable provision of the reserved postal services ..

4. The Review Process

- 4.1. The Authority will conduct the review of the Regulations in a series of phases as follows.

4.1.1. Phase 1 (commencement of the review and publication of questionnaire)

- (a) The Authority will publish a questionnaire or request for information and opinions from market participants and stakeholders.
- (b) The information and opinions obtained from the market participant SAPO and stakeholders will be taken into account which will cover:
 - a. SAPO's financial sustainability and efficiency;
 - b. competition in the parcels and letters sectors;
 - c. levels of customer satisfaction; and
 - d. the appropriateness of past and proposed regulatory conditions.
- (c) Stakeholders will be invited to submit written responses to the questionnaire within thirty (30) working days from the date of publication for the attention of the Chairperson (Price Cap Regulations Review Council Committee) at PCRreview@icasa.org.za.
- (d) The Authority may request one-on-one meetings in relation to information submitted by a stakeholder where necessary to clarify information that is submitted. The Authority will inform the relevant stakeholder in advance of the information to be clarified and will give adequate notice to stakeholders of the proposed meetings.

4.1.2. Phase 2 (Discussion Document)

- (a) The Authority will publish in the *Gazette* a Discussion Document, which will be informed by the information submitted by stakeholders in the context of Phase 1 and any other research or benchmarking exercises to be conducted by the Authority.
- (b) The Discussion Document will be published for public comments for a period of 45 working days.
- (c) Stakeholders may submit written representations on the Discussion Document and must indicate whether they require an opportunity to make oral representations at public hearings as contemplated by section 4B(2)(b) of the ICASA Act.

4.1.3. Phase 3 (Public Hearings on the Questionnaire)

- (a) The Authority **may** hold public hearings on the responses to the Discussion Document, **if deemed necessary**.
- (b) The Authority will, if it deems it necessary to hold public hearings, notify stakeholders of the date, time and the venue of the public hearings.

4.1.4. Phase 4 (Draft Findings Document)

- (a) The Authority may publish draft Findings Document, which will be informed by the information submitted in the context of Phase 1 to Phase 3.
- (b) The draft Findings Document will be published for public comment for a period of thirty (30) working days.
- (c) The Authority will not hold public hearings on the responses to the draft Findings Document.

4.1.5. Phase 5 (Findings Document and draft Regulations)

- (a) The Authority will publish in the *Government Gazette* a summary of the findings¹ in terms of section 4C (6) of the ICASA Act and draft regulations (if necessary).
- (b) The draft regulations will be published for public comment for a period of 30 working days.

4.1.6. Phase 6 (Public Hearings)

- (a) The Authority **may** hold public hearings on the responses to the draft regulations.
- (b) The Authority will, if it deems it necessary to hold public hearings, notify stakeholders of the date, time and the venue of the public hearings.

4.1.7. Phase 7 (Final Regulations and the Reasons Document)

¹ Findings document will be published on the Authority's website.

- (a) Having considered the views of all stakeholders, the Authority will publish in the *Gazette* final regulations and the reasons document.

4.2. Confidentiality

4.2.1. A stakeholder may request confidentiality on the information submitted in terms of section 4D of the ICASA Act. The request for confidentiality must be accompanied by a written statement explaining why the specific information should be treated as confidential in terms of section 4D(4)(a) to (e) of the ICASA Act. The Authority may determine that such representations or any portion thereof is to be treated as confidential in terms of section 4D of the ICASA Act. Where the request for confidentiality is refused, the person who made the request will be granted an opportunity to withdraw such representations or portion(s) thereof.

- 4.3. The Authority may introduce additional phases or steps, where necessary as the review unfolds.
- 4.4. The Authority may conduct industry workshops or public briefing sessions in relation to matters of process.

5. Timelines

- 5.1. The Authority aims to finalise this review in the 2020/2021 financial year.

6. Queries

- 6.1. All communications relating to this review must be directed to the Chairperson (Price Cap Regulations Review Council Committee) at PCRreview@icasa.org.za.